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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.,

Defendant.

Case No. 17-cv-0939-WHA

**NOTICE OF MOTION AND MOTION FOR
LEAVE TO FILE MOTION FOR
RECONSIDERATION**

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Northern District of California Civil Local Rule 7-9(b)(3), Non-party Richard Jacobs, by and through his counsel of record, Martha Boersch, moves this Court for an order granting them leave to file a motion for reconsideration of this Court's November 29, 2017, Notice and Order re Sealing of Letters from Office of the United States Attorney and Richard Jacobs ("Order"). As required by Civil Local Rule 7-9, Non-party Richard Jacobs respectfully contends, as discussed more fully below, that the Order is "[a] manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order."

MOTION FOR LEAVE TO FILE
MOTION FOR RECONSIDERATION
Case No. 17-cv-0939-WHA

INTRODUCTION

Under Northern District Civil Local Rule 7-9, a party may seek leave to file a motion for reconsideration any time before judgment. N.D. Civ. L.R. 7-9(a). A motion for reconsideration may be made on one of three grounds: (1) a material difference in fact or law exists from that which was presented to the Court, which, in the exercise of reasonable diligence, the party applying for reconsideration did not know at the time of the order; (2) the emergence of new material facts or a change of law; or (3) a manifest failure by the Court to consider material facts or dispositive legal arguments presented before entry of judgment. N.D. Civ. L.R. 7-9(b)(1)-(3). The moving party may not reargue any written or oral argument previously asserted to the Court. *Id.*, 7-9(c); *School Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9 Cir. 1993) (“Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.”).

Non-party Richard Jacobs seeks leave to move for reconsideration of the Order to add the redactions appearing in red in the attached as Exhibit A to the Declaration of Martha Boersch, filed under seal herewith. These redactions are necessary to:

1. Protect the safety of Uber employees abroad because, absent the redactions, the identity and conduct of such persons are or could be easily revealed given the context (Redaction Nos. 11, 12, 13, 21). The proposed additional redactions withhold the person’s names or details sufficient to identify such persons;
2. Protect the safety of Uber employees abroad because, absent the redactions, the nature, location, and/or timing of Uber’s activities abroad are revealed and such revelation could, in context, reveal the identity of individual persons who may be subjected to harm (Redaction Nos. 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25). The proposed additional redactions withhold minor details of Uber’s activities to withhold information sufficient to identify the location and timing of

certain Uber activities, all of which are unrelated to the dispute between the parties here;

3. Protect the safety of individuals who currently or formerly worked in some capacity for the United States intelligence services, as well as the identity of certain United States intelligence operations (Redaction Nos. 1, 2). These redactions are limited in scope and, again, do not pertain to the dispute between the parties here; and
4. Protect the safety of employees of a non-party who have been subject to harassment and violence in the past as a result of their activity (Redaction No. 3). Boersch Decl., ¶ 2.

CONCLUSION

For the foregoing reasons, Non-party Richard Jacobs respectfully requests permission from this Court to file his motion for reconsideration and that the Court include the additional proposed redactions when unsealing the Halunen Letter.

Dated: December 12, 2017

BOERSCH SHAPIRO LLP

/s/ Martha Boersch

MARTHA BOERSCH

Attorney for Richard Jacobs